

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

MADHU JAIN,)
PLAINTIFF)
v.)
A CAPE ANN WHALE)
WATCH, INC.)
DEFENDANT)

C.A. No. 05 11267 MEL

**PLAINTIFFS MOTION TO ADMIT DEFENDANT'S ACCIDENT REPORTS AND
PHOTOGRAPHS SUBMITTED IN RESPONSE TO REQUESTS FOR PRODUCTION
OF DOCUMENTS**

The materials submitted with Defendants Responses to Requests for Production are admissible. They were chosen by defendant and supplied to plaintiff.

Although general objections were made, the relevant part of Rule 34 states:

...If objection is made to part of an item or category, the part must be specified and inspection permitted of the remaining parts...

The items supplied by Defendant were not subject to the Responses' objections because the proper manner to object is to describe the item and the objection thereto and force the plaintiff to pursue further under Rule 37 (a).

No objections were made relative to the photographs. (E-1) The photographs were taken before litigation began. Defendant violated plaintiff's numerous requests to preserve the gangway and changed it. These photographs were taken within two weeks of the incident and constitute a large portion of the photographs taken within two weeks of the fall.

The Statement of Injured Person and Captain's Report of Injury could have been withheld if the defendant objected to them. The defendant waived his objections.

The Statement of Injured Person is based on Madhu's statement and she is entitled to it on that basis.

Captain's Report of Injury is used for injuries to the crew as well as passengers it is not limited to liability-based injuries, as crew would come under the Jones Act. It contains no opinion as to cause of injury.

WHEREFORE, the plaintiff respectfully moves that the evidence attached be admitted.

By the Plaintiff,


JEFFREY C. CONIARIS

BBO# 555907

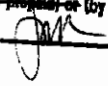
84 State Street

Boston, MA 02109

(617) 720-5888

CERTIFICATE OF SERVICE

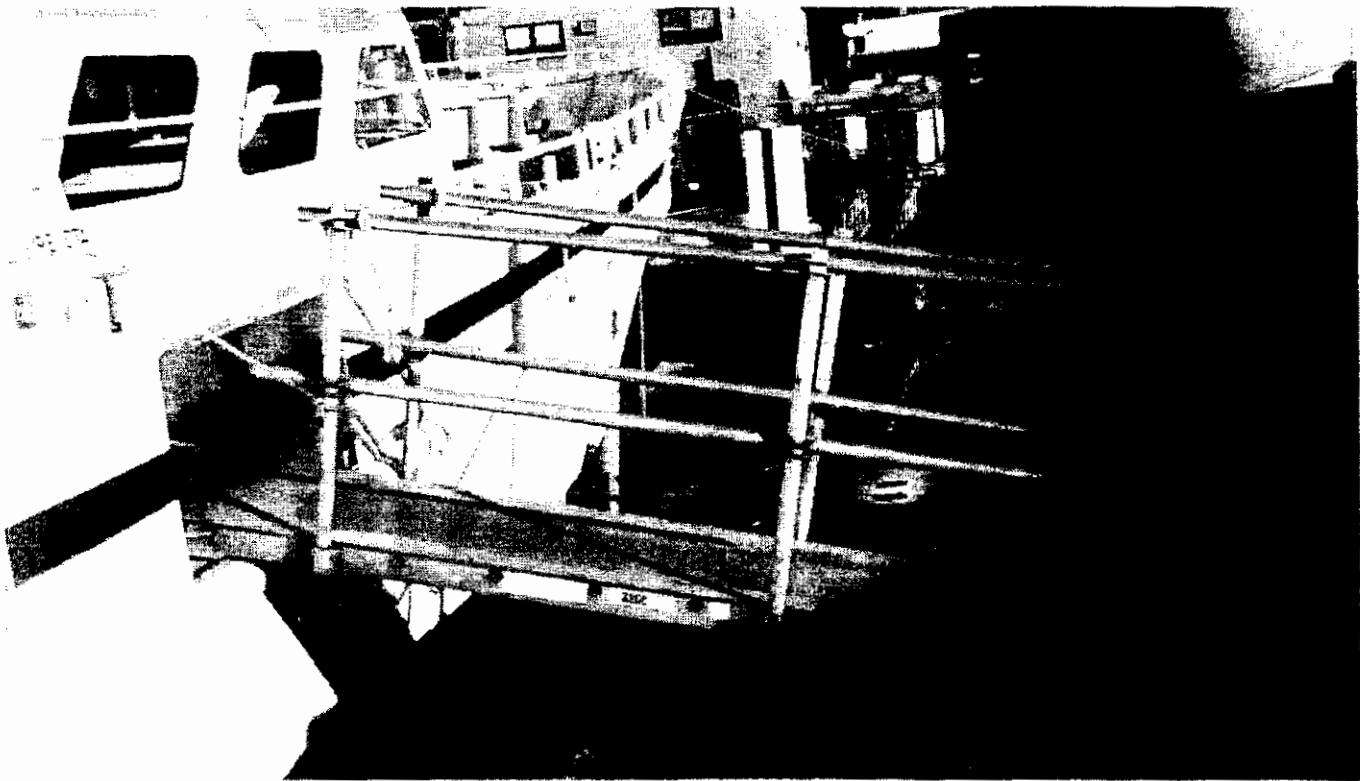
I hereby certify that a true copy of the above document was served upon the attorney of record for each party and any party appearing pro se by ~~first class mail postage prepaid~~ or (by hand delivery).

Dated 6/6/07 









STATEMENT OF INJURED PERSON

Name of person injured: Madhu Jain

Crew member or passenger? PASSENGER

Address: 10 BETTS ROAD - Belmont, MA 02478

Home telephone number: 617-489-2733

Business telephone number: _____

In your own words describe exactly what happened: The person injured was getting off the boat and slipped on the ramp and hurt her ankle. She went to the hospital.

We have lots of witnesses

Madhu Jain

(Signature of person injured)

CAPTAIN'S REPORT OF INJURYName of person injured: MADHU JAINAddress of person injured: 10 Betts Rd
Belmont MA. 02478Home telephone number of person injured: 617 489 2733

Business telephone number of person injured: _____

Was person injured a crew member or passenger? PASSENGERName of vessel: HURRICANE IIDate and time of occurrence: 8/19/04 4.45 pmSea condition: N/A - at dockBrief description of what happened: PASSENGER WAS DISEMBARK
ON Ramp, from vessel to BARGE, SHE
Slipped at end of Ramp. Injuring her
Ankle. Passengers were warned to Be CarefWas there any defect in the vessel or the condition of the vessel which contributed to the injury? NO

If answer to above question is "Yes" give description of condition and remedies taken:

Name and address of crew members who were witnesses and telephone numbers of same:

John Newman First Mate - 6 Young Ave
Gloucester ma, 01930 - Phone 978-283-8205 -
Cell Phone 978-479-9480

Name and address of passengers who were witnesses and telephone numbers of same:

Captain's opinion as to cause of injury: NO opinionCapt Jeff H Egan